G. R. S. 59]

GENERAL AND REVENUE SECRETARIAT.

1900

(Prisons)

File No. 13-10.

Serial Nos. 8

Papers Filed.

Month Dec 10

SUBJECT.

Calculation of the period of sentence and the date of commencement of imprisonment passed by a Supore Magistrate on a prisoner already undergoing imprisonment awarded by a foreign Court.

PREVIOUS REFERENCES.

Pris 14-04 Sls 1-14. A. Jany 08.

Pris 36 of 1896-97.

LATER REFERENCES.

Pris 159-30 1-4

Pris 31-31 & 51.

G.R.S.11] 1940-41

GENERAL AND REVENUE SECRETARIAT

(Poona)

NOTES.

Pls File No. 13/40

FILE HEADING.

Calculation of the period of a sentence of imprisonment (and the date of commencement) passed by a Mysore Magistrate on a prisoner already undergoing imprisonment awarded by a foreign Court.

From

No.	Dated	Received
Diary No.	Enclos.	Spare Copies / Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

13 File resubmitted for Considering the General Question. References are to be Cb. 25/8 26/8/40

The point for Consideration that arose in Criminal Case in File no 58/09 is this

Serial No.

3 A prisoner is sentenced to undergo a period of imprisonment by a Court in the C/ M St^n of Bangalore and before the Expiry of that period he is also tried and sentenced to another period of imprisonment by a Court of the Mysore State. In such a case when does the latter sentence Commence to run? that is, does it begin immediately the sentence is passed or after the Expiry of the C/ M St^n sentence?

(1)

4 & 5 Ordinarily it so happens that such a Convict is Committed to the same jail * for undergoing both the punishments. In such a case, the Supt of the jail will have to decide which when the second sentence shall Commence to run.

* Viz the Central Jail

5 & 6 Of Course if the judgment specifies the date of Commencement of the second sentence, as is said to have been done in the case which has given rise to this reference, no difficulty arises, though it is not quite clear under what authority a Court in Mysore Can postpone the Commencement of

NOTE—Contn. sheet.

GPB—55,000—27-4-09

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of a sentence till after the Expiry of the a sentence passed by what is virtually a foreign Court

6 ~~7~~ And the difficulty is that during the currency of the C. M. St^n sentence the prisoner is sometimes conveyed to the Vellore Jail, in pursuance of an administrative arrangement. What is the effect of this on the Mysore sentence? ... These are the points for consideration

~~Answer as to the disposal and~~ ~~be transmitted as~~

~~6~~ 7 Forwarded to the Government Advocate in Mysore for favour of his opinion on the above points.

R. O. ~~7~~

[illegible]
for Sec'y.

27/8/10.

9/10

D. O. 12. 1.
dated 31-8-1910.

~~8~~ It is not illegal for a Magistrate to pass a sentence on a person undergoing imprisonment in a foreign territory and direct it to commence on

NOTE—Contn. sheet.

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4 5

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It

9

Re no reasons given

The expiry of the sentence he is there undergoing (20 Madras 444). If there be no such direction in the judgment and if the convicted person is undergoing the foreign sentence in a Mysore jail under some legalised administrative arrangement, the procedure laid down in Sec: 397 Cr: Pro: Code will have to be followed. If there be no such legalised arrangement, his detention in the Mysore jail will be wrongful and the sentence passed by the Mysore Court will take effect from the date thereof.

31. 8. 1910 A. Narayana Rao
Govt Advocate

10

Subd for orders — The points will be noted for guidance & may perhaps be embodied in a circular

SN 3-9-10

3/9/10 SD

Sec') 11. What is the legal authority under which convicted prisoners are detained in the Bangalore jail

HBG Vogles

SD 2/9/10

NOTE—Contn. sheet.

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General and Revenue Secretariat.

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There is no legal authority for the practice but it is an administrative arrangement which is in force for a very long time as will be seen from the numerous bills which ~~are~~ have been paid by the Resy from time to time. No file could be traced in which contains a formal agreement in writing between the Govt and the Resy for maintaining the prisoners of the C & M Stn in the Central Jail, Bangalore. Letter No 3782 dt 19.10.96 from the F. A. Resident ; however, shows that the practice in force has the sanction of the Govt of India.

28/9/1900 SW

13 (1) Bishop
~~Write~~ a Do. to the Dy. Commr asking for reports if any on the question

(2) Please look up carefully the Prisons Act and the Jail Manual and see if there is any provision which would justify the execution by ~~the~~ Govt of sentences imposed on a prisoner by the Courts subordinate to another Govt. There seems to be such a provision in the Madras rules (vide correspondence in Chinnathambi's case

NOTE—Contn. sheet.

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yet pending — put up that refee

SH

29/9/10.

Pm

15

16 (1) D.o. to Lt-Col. Smyth is put up.
(2) the point will be looked into after the issue of the D.o.

CR. SN
1/10/10. 1-10-10

(1) 2 copies
(2) Has Col. Smyth returned? (Letter put up 29/9 to thank suitable charge

17 The D.o. may be issued

3/10/10. SH

See J. 68 Issue.

AB
3/10/10

SH
3/10

J. no. 38-10

P. T. o

GPB—55,000—27-4-09

7

G.R.S. 26]

File No. 13 2C

Serial No.

5/10/10

Confidential Pris

Diary No. of letter replied to

D No. J 1186.

(9)

General and Revenue Secretariat

(Pris)

, the 19 .

To

Dear Sir,

I am directed to request you to be so good as to let me know, at an early date, the authority, if any, in which the prisoners of the C & M Station are admitted into and maintained in the Bangalore Central Jail.

Yours &c

Sd

Asst Secy

Date of issue 6-10-10

Signed by Sd Srinivasamurthy for

SN 1-10

To

Lt. Col. J. Smyth, M. D., &c

I.G. Prisons in Mysore

over.

SUBJECT.

Civil & Sessions

G.R.S. 12]
General and Revenue Secretariat.

Pris File No. 13 of 1910

D. O. No. 87 7-07 Confidential

OFFICE OF THE INSPECTOR-GENERAL OF PRISONS IN MYSORE.

Bangalore, 6th October 10. ~~1907~~

Dear Sir,

In reply to your D.O. No.J.1186/Pris.13-10 dated 6th October 1910, I have to state that prisoners of the Civil and Military Station, Bangalore are admitted and maintained in the Bangalore Central Jail under the legal authority of letter No.2792/547 dated 28th March 1884 from the Assistant to the Resident in Mysore, copy of which was furnished to this office with the Dewan's Proceedings No.191/5 dated 8th April 1884.

Yours sincerely,

M.D.,
Lt.-Colonel I.M.S.,
Inspector-General of Prisons.

To

S.Hiriyannaiya Esqr., M.A., B.L.,
Assistant Secretary to the Govt.
of H.H. the Maharaja of Mysore,
Genl. & Rev. Deptts.

21 The Genl Records has not been able to put up the reference required - vide remarks on the Routine Note hereinto put up. A Copy of the G.O. referred to will be called for

P

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12
General and Revenue Secretariat.

Pris File No. 13 of 1910

Serial No.

(from the Officer of the I.G. of Prisons, if necessary. Whether it is doubtful if the provision made by an administrative order of Govt. can be "legal authority" in the strict sense of that term.

2. Neither the Prisons Act XXVI of 1870 (subsequently amended in Br India by Act IX of 1894). nor the Mysore Jail Manual contains any authority for the execution by Superintendents of jails in Mysore of sentences passed by Courts outside Mysore. Nor does there appear to be any general provision in the Madras Rules for the execution in Madras jails of sentences passed by Courts outside Br. India. Such a permission is provided for by Sec. 15 of Prisoners Act, 1900, only under certain conditions - vide Act in the Madras Jail Manual herewith put up.

Flag N.

3. Submd for orders.

CR. SW. 25/10/10 VI/10

4. See marginal remarks

4/11/10.

The file referred to above has been submitted to the Asst. Secy. to-day with a draft.

8/11

5. Draft D. O. Submitted for approval

CR 8/11

NOTE—Contn. sheet.

GPB—55,000—27-4-10

R T O.

G. R. S. 12]
General and Revenue Secretariat.

X

CO

Pris File No. 13 of 1910

Serial No.

Draft D.O

26 No J 1421

Dated 10th November 10.

Dear Sir,

I am desired to request you to forward for reference to this office at a very early date, a copy of the Dewan's P.O. No 191/S dated 8th April 1886, to Salem with a copy of its enclosure, referred to in your D.O. No 87/1-07 dated 6th Oct 1910

9/11/10

Yours sincerely

For Offg. Secretary

To Lt. Col. J. Smyth the D., P.W.S. & I. Y. Officer in Mysore.

8/11 8/11/10 Issued 8/11/10

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

Pris File No. 13 of 1900

Serial No.	
8	From The I. G. of Prisons in Mysore. No. 1415/1-07 dated 15-11-00. forwarding a copy of the Dewans Proceedings No 181/5 dated the 8th April 1884 together with a Copy of the enclosure. 28 In his letter No 2782/547 dated the 28th March 1884, the then P. A. Resident Communicated to the Durbar, the orders received by the Residency from the Govt of India with regard to the Continuance of the prisoners of the C. & Th. Station From para 6 of that letter it appears that ~~such~~ with the Durbar ~~the~~ arrangement for the ~~deposit~~ custody of the C. & Th. State prisoners was intended to be of a temporary character as a prison of the class of Dt Jail was proposed to be built for the C. & Th. Station. It must be by the Government was obliged it is not possible ~~for the~~ now to say from the avail able records of the office.

NOTE—Contn. sheet.

GPB—55,000—27-4-09

G.R.S. 12]
General and Revenue Secretariat.

Pris File No. 13 of 1910.

Serial No. 29

Even in this case there seems to have been some doubt in the minds of the Bunder officers as to the legality of the arrangement whereby prisoners of the C & the Station were confined in the Bunder's Central Jail, (vide Post Script to above letter) But the F.A. Resident clears up of the question by inviting attention to the instructions of the Govt of India referred to in para 4 of his letter. No previous file on the subject would have been very useful G.R.S. post now, but it is the General Records Staff that the file is not traceable

30 Submitted for orders

C.S. 19/11 21-11-10

31. From the available records it is difficult to see how the existing arrangements can be said to have a legal basis.

See 7) 23/11/10

14 NOTE—Contn. sheet.

GPB—55,000—27-4-09

G. R. S. 12]
General and Revenue Secretariat.

File No. 13 of 1910

Serial No.

32 The legal position seems to be not beyond doubt but it looks well to let sleeping dogs lie. The question may be taken up when any actual case is brought before Govt.

~~1st~~ 2nd
1st

CSB
9/12/10

~~SB~~
9/12/10.

1557
7.12.10

33 Thank you.
In the meantime the file on the subject should be traced

KBM
7/12/10

34 Please see (illegible)

7/12/10

J1334

No. 1415/7-7 Encs. 2. Office of the Inspr. Genl. of Prisons in Mysore,

Dated Bangalore, 15th November 1910.

From

Lt.-Colonel J.Smyth M.D., I.M.S.,

Inspector-General of Prisons in Mysore.

To

C.S.Balasundaram Iyer Esqr., B.A.,

Offg. Secretary to the Government of H.H.

the Maharaja of Mysore, Genl. & Rev. Deptts.

Sir,

As desired in your D.O. No.J.1420/Pris.13-10 dated 10th instant, I have the honor to forward for reference in your office a copy of the Dewan's Proceedings No.191/5 dated the 8th April 1884, together with a copy of its enclosure.

I have the honor to be,

Sir,

Your most obedient servant,

For Inspector-General of Prisons.

T.C.G.

Ex. Rec. 15.11.10 Pris J/1384

19[illegible]

From

The Inspr. Genl. of Prisons in Mysore.

To

The Secy. to Govt. Genl & Rev. Depts.

Dated 15. 11. 10.

Despatched

Received

General No. 1415

No. 7-07

Enclosure No. 2.

Forwards for reference in his office a copy of the Dewan's Progs. Nr. 191/S Dy. 8.4.1884 re: the maintenance of C & M. status prisoners in the B.C. Jails.

GPB—70 reams—27-12-09

No.2792/547 of the 28th March 1884 from the Assistant to the Resident.

Proceedings of the Dewan of Mysore.

Order No.191/5 dated Bangalore, 8th April 1884.

Copy of the accompanying letter is forwarded to the Inspector General of Prisons, with a request that the statements referred to in paras 2 and 6 may be caused to be prepared and sent to this office as early as convenient.

The Dewan requests that Dr. Henderson may be asked to furnish the Resident with any information and suggestions he may require regarding the custody and disposal of the Civil and Military Station prisoners.

(Sd.) C.Srinivasiengar

Under Secretary.

" C O P Y "

For Inspector-General of Prisons.

No.2792/547 Office of the Resident in Mysore,

Bangalore, 28th March 1884.

To

The Dewan of Mysore.

Sir,

In reply to your Secretary's letters Nos.4388/205 of the 16th November 1883, and 4575/218 of the 27th idem, I am directed by the Resident to inform you of the orders which he has received from the Government of India with regard to the imprisonment of prisoners convicted by the Courts of the Civil and Military Station or by Courts Martial, and at present lodged in the Bangalore Central Jail.

2. The Government of India accepts the charge of Rs.8790-9-2 for the keep of these prisoners up to the 30th September last, which amount should be at once credited to the Durbar in the account of the revenues of the Assigned Tract at present kept in their Treasury. I am also to request that a supplemental account may be furnished showing what further expenses were incurred under this head up to the close of 1883. In this account the expense on account of convicts whose term of imprisonment had not then expired should be included

3. I am also to request that for the future all charges for the keep of prisoners may be kindly furnished annually for adjustment by this office, the account to be made up to the 31st December of each year.

4. The Government of India directs that in future convicts sentenced to transportation by the Courts in the Civil and Military Station should be deported under the usual arrangements to the Andaman Islands, and that for the reception of prisoners sentenced to 12 months and under, and for prisoners under trial, a prison of the District Jail Class with a lock-up attached should be constructed in the station. The small number of prisoners remaining sentenced to longer periods of imprisonment, or of transportation convicts whom it is undesirable to send to the Andamans

may,

may, under arrangements to be made with the Madras Government be confined in the Vellore or Salem Central Jails.

5. With a view to carrying out these orders of the Government of India, I am directed to request that you will be so good as to furnish the Resident with a return of the men, if any, who ought now to be sent to the Andamans under these orders, or, if, in the case of any such men, there are circumstances which in Dr. Henderson's opinion make it undesirable to deport them, Mr. Lyall will be obliged if Dr. Henderson will give a statement of the reasons.

6. Regarding the construction of a District Jail for the Civil and Military Station, the Resident may possibly have to request the Government of India to modify their orders, but to help him in the consideration of this matter, Mr.Lyall wishes to obtain some information from the Superintendent of the Bangalore Central Jail as follows:-

(1) A return of the average daily number of Civil and Military Station prisoners, male and female, adults and boys, European and Native, and Civilian and Military, who have been confined in the Bangalore Prison and Lock-up respectively since the Rendition specifying in regard to prisoners the number sentenced to more or less than one year's imprisonment.

(2) An estimate of the amount of maximum accommodation for each class of prisoners requiring separate treatment which will be likely to be required in a Civil and Military Station Jail and Lock-up such as that contemplated by the Government of India.

Dr. Henderson could probably give the above information without much difficulty, and from his great experience of Jail management in Bangalore, his advice would be invaluable. I am therefore to request you will be so good as to permit me to correspond demi-officially with Dr.Henderson on the subject.

I have &c.,
(Signed) H.Wylie,
Assistant to the Resident.

P.S. After this letter had been written the Resident has received

received your No.45 of 26th instant, in which you ask his opinion on certain questions which have been raised as to the legality of the continuance of the existing arrangement whereby prisoners of the Civil and Military Station are confined in the Durbar's Central Jail. Mr.Lyall thinks you will agree that the instructions now received from the Government of India, have altered the aspect of the case, and that it is not now necessary for him to express an opinion.

(Signed) H.Wylie

" C O P Y "

(Sd.) C.Srinivasiengar

For Secretary.

" C O P Y "

For Inspector-General of Prisons.